

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4186 OF 2019**

Kumar Dnyandev Kamble	]	
Age – 40 years, Occ. Service,	]	
Residing at - Post Shingnapur.	]	
Taluka – Karveer,	]	
District – Kolhapur.	]	Petitioner

versus

- | | | | |
|----|---------------------------------------|---|--|
| 1 | State of Maharashtra |] | |
| | Through Secretary, |] | |
| | Public Health Department, |] | |
| | Mantralaya, |] | |
| | Mumbai – 32. |] | |
| 2. | Directorate of Medical Education |] | |
| | and Research, |] | |
| | Government Dental College |] | |
| | And Hospital Building, |] | |
| | St. George’s Hospital compound, |] | |
| | Near V.T., Mumbai 400 001. |] | |
| 3. | Dean, |] | |
| | Rajashree Chhatrapati Shahu |] | |
| | Maharaj Government Medical |] | |
| | College, Kolhapur. |] | |
| 4. | Dean, |] | |
| | Grant Medical College and |] | |
| | Department of Traumatology |] | |
| | and Orthopaedic Surgery, |] | |
| | 2 nd floor, Main Building, |] | |
| | Byculla, Mumbai – 8. |] | |

[Summons for Respondents	]	
No.1 to 4 to be served	]	
on the Ld. GP for the	]	
State of Maharashtra].	]	Respondents

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 Mr. Venkatish A. Shastry, Advocate for Petitioner.
 Mr. Karan Thorat, A.G.P., for Respondent – State.

CORAM : **RAJESH S. PATIL AND
ABHAY J. MANTRI, JJ.**

RESERVED ON : **28th SEPTEMBER, 2026.**
PRONOUNCED ON : **8th October, 2026.**

JUDGMENT: [PER ABHAY J. MANTRI, J.]:

1. **Rule.** Rule made returnable forthwith and, by consent, taken up for final hearing and heard learned Advocate for the Petitioner and learned A.G.P. for the Respondents – State.

2. The Petitioner, feeling aggrieved and dissatisfied by the issuance of an undated handicapped certificate (dated 21.05.2018) by Respondent No. 4 – Dean, Grant Medical College and Sir JJ Group of Hospitals, Mumbai (for short “*J.J. Hospital*”), has preferred this Petition.

3. The Petitioner’s case is that he has been working as a Class-IV employee on the post of “Attendant” in the Laboratory Department of Rajashree Chhatrapati Shahu Maharaj Government Medical College, Kolhapur (for short, “*Shahu Medical College*”), since 1st September 2005. He was selected and appointed to the said post, which was reserved for candidates belonging to the Scheduled Caste category (for short, “*S.C. category*”).

4. The Petitioner was suffering from “***Post Polio Residual Paralysis Left Lower Limb***”, resulting in permanent disability to the extent of **45%**. The Orthopaedic Surgeon affiliated to the Civil Hospital, Kolhapur, examined him, and a Committee constituted of designated Doctors for the purpose of issuing the requisite certificate at CPR Hospital, Kolhapur, issued a Disability Certificate dated 14th August 2005 in favour of the Petitioner. Since then, he has been availing of the benefits available to persons with disabilities in accordance with law.

5. On 15th May 2018, Respondent No. 4 – Dean – J.J. Hospital, issued a communication informing Respondent No.3 – Shahu Medical College that Respondent No.2 – Directorate of Medical Education and Research had directed verification of the disability certificates of the employees of Respondent No. 3- Shahu Medical College; accordingly, a list of employees’ names and dates has been issued for the verification of the authenticity of disability certificates. As per the said list, the Petitioner was to attend the J.J. Hospital on 21.05.2018. Accordingly, he attended J.J. Hospital and was examined on the same date by Dr. Ankit A. Narfatia, Assistant Professor, Orthopaedic Department. Thereafter, the Committee constituted by Respondent No.4 issued a fresh disability certificate certifying that the Petitioner had ‘***Physical Impairment***’ and was suffering from **35% Permanent disability**.

6. Based on the Disability Certificate issued by Respondent No.4, Respondent No.3 issued communication dated 12.12.2018 calling upon the Petitioner to appear before the enquiry committee along with the original Disability Certificate and other relevant documents to face the enquiry. Pursuant to the said communication, the Petitioner appeared before the committee on 18.12.2018 and submitted his explanation regarding variation of the percentage of disability. Despite submitting the explanation and thereby indicating the reason for variation, Respondent No.3 issued a show cause notice dated 18.12.2018 to the Petitioner and asked why his services should not be terminated for tendering an inaccurate/fallacious disability certificate to obtain the benefits available to disabled persons.

7. The Petitioner further contends that, in pursuance of the Government Circular dated 16.05.2009 and Government Resolution dated 06.10.2012, Respondent No.3 proceeded ahead with the drive to verify disability Certificates issued to its employees and accordingly published official communication on 07.07.2018 and asked its Class III and Class IV employees to appear before the committee constituted by Respondent No.4 on 09.07.2018.

8. The Petitioner further propounds that the disability certificate was issued without following the mandate of the Circular dated 16th May 2009 and the Government Resolution dated 6th October 2012 and, therefore,

the said certificate cannot be said to have been issued by the Competent Committee in accordance with the procedure prescribed under the aforesaid Circular and Government Resolution. It is further contended that Respondent No.4 – J.J. Hospital, issued an undated certificate purportedly while re-verifying the disability certificate dated 14th August 2005, which the duly prescribed Committee had issued in accordance with the Government Resolution dated 6th October 2012.

9. It is submitted that the verification exercise undertaken after a considerable lapse of nearly fifteen years is itself vitiated on the ground of limitation. It is, therefore, urged that the undated disability certificate (dated 21st May 2018) issued by Respondent No.4 – J.J. Hospital, was issued without following the procedure and mandate prescribed under the aforesaid Circular and Government Resolution and, as such, cannot be taken into consideration. The Petitioner has, therefore, prayed for quashing and setting aside the said undated handicapped certificate.

10. *Per contra*, Respondent Nos. 1 to 4 have resisted the Petition contending that, pursuant to a complaint received regarding use of bogus disability certificates, the State Government had initiated scrutiny of the disability certificates of existing Government employees, who were claiming the benefits of disability conditions. During this scrutiny, three members of the Medical Board of Respondent No.4 - J.J. Hospitals examined the

Petitioner in accordance with the Government Resolution dated 6th October 2012, which was then applicable. Upon such examination, the Petitioner was found to have 35% disability. Since the disability was below the prescribed threshold of 40%, the Medical Board rejected the Petitioner's disability certificate.

11. Secondly, it is contended that the Petitioner has an alternate remedy to challenge the Medical Board's decision by filing an appeal before the Appellate Board. It is submitted that, admittedly, the Petitioner has not availed of the said remedy of appeal. On these grounds, the present Petition is liable to be dismissed, and the Respondents be permitted to recover from the Petitioner the monetary benefits availed of based on the earlier disability certificate.

12. In the above backdrop, the following points arise for determination, and we delve upon these issues one by one;

- (i) *Whether the permanent disability certificate issued by the prescribed committee can be subjected to re-verification?*
- (ii) *Whether the Medical Board constituted by Respondent No.4 – J.J. Hospital is the Competent Authority to issue disability certificate?*
- (iii) *Whether the disability assessed by the Medical Board constituted by J.J. Hospital is just, proper and legal?*
- (iv) *Whether the Petitioner is entitled to seek relief under Article 226 of the Constitution of India when an alternate remedy of Appeal is provided before the Appellate Board?*

13. Having considered the extensive oral submissions of the learned Advocate for the Petitioner and the learned AGP appearing for the Respondents and having gone through the record, it would be appropriate to refer to the dictum laid down by this Court in ***Santosh Hiranman Lashkare v. State of Maharashtra and Others***, as the issue involved in this bunch of writ petitions and the case at hand is identical.

14. It is pertinent to note that this Court (Principal Seat), in a batch of Writ Petitions, including Writ Petition No. 4325 of 2026, ***Santosh Hiranman Lashkare v. State of Maharashtra and Others***, has dealt with an identical issue and laid down guidelines regarding the re-verification of disability certificates. While dealing with a similar controversy, this Court has observed as under:

“The verification/scrutiny exercise conducted by the State Government was needed because the State Government has been receiving large complaints from various departments and individuals that several employees in Government services are using bogus disability certificates/non genuine certificates/ temporary or below benchmark disabilities certificates/ UDID cards and working in the government establishments and are also obtaining benefits that are reserved exclusively for persons with benchmark disabilities”.

15. This Court after considering Section 2 (r) and 2(s) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, (for short “***Act of 1995***”) (now replaced by New Act of 2016), while replying to the said controversy has held that Re-verification

of disability certificates is permissible under the Rights of Persons with Disabilities Act, 2016 (for short “*Act of 2016*”) with Rules as a large number of beneficiaries are noticed to have indulged in irregularities/fraud, which also stinks of the involvement of the medical faculty. Therefore, the State directed that all the Petitioners and similarly placed employees shall subject themselves to medical examination. It was also observed that the State has been grappling with growing discoveries of exaggerated disability percentages.

16. It was also observed that in the light of the Judgments/Orders of the Hon’ble Supreme Court and the Rajasthan High Court that “*the State has the authority to carry out medical examination for re-assessment, in peculiar, specific and warranting circumstances, we deem it appropriate to approve such exercise undertaken by the State, as a one-time measure, provided a special Medical Board is constituted for the purpose of the medical re-examination*”.

POINT NO. (i):

17. The thrust of the argument of the learned Advocate for the Petitioner is that, pursuant to the prescribed guidelines, on 14th August 2005, the Competent Committee, i.e., the Civil Surgeon, Kolhapur, had issued a handicapped certificate in favour of the Petitioner, diagnosing that he is suffering from “*Post-Polio Residual Paralysis of the Left Lower Limb*” and assessed that he is suffering from **45%** permanent disability. Thus, the

learned Advocate submitted that the said certificate could not be questioned after a lapse of fifteen years. Secondly, he argued that the Competent Committee had issued the disability certificate and, therefore, it could not be subjected to re-verification without any reason. However, the Authorities, without considering the guidelines laid down in the Circular dated 16th May 2009 and the Government Resolution dated 6th October 2012, called upon the Petitioner to undergo re-verification and reassessed his disability. Therefore, he urged that such re-verification was impermissible and was bad in law.

18. On the other hand, the learned A.G.P. strenuously opposed the submissions made on behalf of the Petitioner, contending that the State Government had received complaints regarding the use of bogus disability certificates. Accordingly, the State Government undertook scrutiny of the disability certificates of existing Government employees claiming benefits based on their disability. There is no bar to direct an employee to appear before the Committee/Board for re-verification of his disability. Merely because the Competent Authority issued the disability certificate, it cannot be said that the certificate cannot be re-verified. He, therefore, propounded that the employer was competent to direct the Petitioner to undergo re-verification of his disability. According to the learned A.G.P., the action taken by the Authorities in directing the Petitioner to undergo re-verification was therefore justified.

19. At the outset, it appears that the Directorate of Medical Education and Research, Bombay, vide its communication dated 20th March, 2018, directed Respondent No. 4 – Dean, J.J. Hospital to verify the disability certificates issued in favour of the employees of Respondent No. 3 - Shahu Medical College as well as Chhatrapati Pramilaraje Hospital, Kolhapur, to whom online certificates have been issued. Vide communication dated 15th May 2018, Respondent No. 4 – Dean, J.J. Hospital directed the Petitioner and twenty-four other employees of both the institutions to appear before it for verification of their online disability certificates on 21st May, 2018, 28th May, 2018 and 30th May, 2018. Pursuant to the said communication, the Petitioner appeared before Respondent No. 4 on 21st May, 2018. Accordingly, Respondent No.4 had examined the Petitioner and diagnosed that the Petitioner is suffering from a “*physical impairment*” disability to the extent of 35% and, therefore, rejected the certificate.

20. The Petitioner was examined by the Board consisting of Dr. Nadir Shah, who is a concerned Specialist; Dr Sanjay Surase, Member Secretary/ Residential Medical Officer; and *President/Civil Surgeon* Mukund B. Tayade.

21. It is worth noting that, as per **Clause 4** of the Government Resolution dated 6th October 2012, the concerned Civil Surgeon of the Civil Hospital or the Dean of the College is duly empowered to constitute the

Medical Board/Committee of three members. As per **Clause 3** of the Circular dated 16th May 2009, in cases of any suspicion or upon receipt of any complaint in that regard, it is necessary to verify whether the Civil Surgeon issued the said certificate.

22. No doubt, ordinarily, certificates issued by the Civil Surgeon/Medical Board are not subject to re-verification. However, if a complaint is received regarding the issuance of such certificate, or in a suspicious case, regarding the person who issued the certificate or to verify the accuracy and authenticity of the percentage mentioned therein, it would be appropriate to re-verify or reassess the said certificate. In such circumstances, the employer is entitled to ask the employee to undergo a medical examination by the Medical Board constituted by the competent Authority, particularly when there is a tendency among people to grapple for obtaining disability certificates showing the percentage of disability at or above the prescribed benchmark, so as to avail the benefits available to persons belonging to the said category.

23. Even assuming, for the sake of argument, that the learned Advocate for the Petitioner is correct in submitting that, once the competent Medical Board has issued the medical certificate fifteen years ago, it would not be appropriate to subject the employee to undergo a medical examination, in our view, if the Petitioner truly suffers from a permanent disability, there is

no reason for him to shy away from undergoing a medical examination in order to dispel the doubt raised in the complaint. Such re-examination would neither reduce his disability nor prejudice his rights. On the contrary, if the Petitioner obtained the said certificate by showing an exaggerated percentage of disability, then he would have reason to object to such re-examination. In such circumstances, his refusal to undergo medical examination may give rise to an inference against him that he does not suffer from the prescribed benchmark disability and is, therefore, reluctant to undergo re-examination.

24. Apart from the above, there is no bar to requiring an employee to undergo a medical re-examination, as such re-examination would not cause any prejudice to his rights. On the contrary, it would help to clarify the doubt raised in the complaint received by the employer.

25. In the light of the above discussion, in our opinion, the Petitioner failed to make out a case to show that the employee shall not be subjected to a re-medical examination. On the contrary, as per the dictum laid down in *Santosh Hiranman Lashkare* (supra), the State has the authority to conduct a medical examination to re-assess disability. There is no hurdle for the same. Hence, *we answer point No.1 in the affirmative.*

POINT NOS. (ii), (iii) and (iv):

26. Learned Advocate for the Petitioner has mainly emphasised that the Medical Board constituted by Respondent No. 4 – J.J. Hospital was not

constituted in accordance with the mandate in Circular dated 16th May 2009 and the Government Resolution dated 6th October 2012 and, therefore, the issuance of the said certificate itself is illegal.

27. It is to be noted that Clause 4 of the Circular dated 6th October 2012 prescribes that the concerned Civil Surgeon/Dean of the Hospital or Medical College is competent and empowered to constitute a Medical Board/Committee. Although Column 2 provides that the Dean shall be the President and two other Doctors shall be members of the Board, the certificate in question also indicates that Dr. Mukund Tayade was shown as the President/Civil Surgeon. Besides, in view of the mandate laid down in the judgment in *Santosh Hiranman Lashkare* (supra), an employee can be directed to undergo a medical examination either by a Civil Surgeon or a team of Doctors. Therefore, we find no merit in the contention advanced by the learned Advocate for the Petitioner that Respondent No.4 was not a competent Medical Board/Panel/Committee to issue the disability certificate.

28. Alternatively, it is contended that, pursuant to the communication dated 15th May 2018, the Petitioner appeared before Respondent No.4 – J.J. Hospital. However, according to the Petitioner, instead of being examined by the Medical Board, he was examined only by Dr. Ankit Marfatia, Assistant Professor, Orthopaedic Department. Thereafter, the Medical Board/Committee constituted by Respondent No.4 – J.J.

Hospital, headed by President Dr. Tayade, issued the undated handicapped certificate under the authority of Dr. Nadir Shah.

29. We have perused the certificate issued by J.J. Hospital. It reveals that the Medical Board comprised Dr. Nadir Shah, the Concerned Specialist, Dr. Sanjay Surase, R.M.O., and Dr. Mukund Tayade, President/Civil Surgeon. The Petitioner has not placed any material on record, though he harped on the argument that he was examined by Dr Ankit Marfatia and not by the Medical Board. In the absence of any supporting material, a mere assertion made by the Petitioner cannot, by itself, be sufficient to draw an inference that the duly constituted Medical Board did not examine him.

30. The next question raised by the Respondent is that, under the Government Resolutions dated 6th October 2012 and 17th October 2017, an employee aggrieved by a certificate issued by the Medical Board/Panel has a remedy to challenge the same by filing appropriate proceeding/Appeal before the Appellate Board constituted under Clause (g)(1) of the Government Resolution dated 6th October 2012 and Clause 8 of the Government Resolution dated 17th October 2017.

31. In such an eventuality, even assuming that he was aggrieved by issuance of the certificate by Board/ Committee constituted by Respondent No.4, in such circumstances, he can avail a remedy available as per

Government Resolution dated 6th October, 2012 and 17th October, 2017; he can challenge the said certificate/decision of the Medical Board by filing appropriate proceeding/Appeal before the Board constituted under aforesaid G. R.'s. Undisputedly, the Petitioner has not availed of the said remedy.

32. In the absence of any such challenge, the Petitioner has failed to establish any ground for exercise of the inherent jurisdiction of this Court in the interest of justice. We are, therefore, of the view that the Petitioner has failed to demonstrate that he is entitled to exemption from re-verification or that Board/ Committee constituted by Respondent No. 4 was not competent to issue the disability certificate. Consequently, the challenge to the disability certificate on the ground of want of competence cannot be sustained.

33. In the wake of the aforesaid discussion, in our view, the Petitioner is not entitled to the reliefs sought in the present Petition in exercise of the extraordinary jurisdiction of this Court. **Accordingly, point Nos. (ii), (iii) and (iv) are answered as discussed above.**

34. Consequently, **the Petition, being bereft of merit, stands dismissed.** There shall be no order as to costs.

35. The Rule is discharged.

36. The Petition is disposed of.

[ABHAY J. MANTRI, J.]

[RAJESH S. PATIL, J.]